

**REMARKS**

Claims 1-27 are pending. Claims 17-24, 26, and 27 are canceled. Claims 1-16 and 25 are rejected. Claim 9 is amended to correct a typographical error.

The Examiner's June 23, 2004 Office Action does not acknowledge receipt of Applicant's March 23, 2004 Response fully responding to each basis of rejection. Moreover the June 23, 2004 Office Action appears to substantially duplicate the Examiner's December 23, 2004 Office Action. Applicant believes he has fully responded, and will again respond, but respectfully requests clarification if he has misunderstood.

Applicant respectfully requests the Examiner's consideration of an IDS reference. The Examiner errantly included applicant's Information Disclosure Statement Forms 1449 for related Application Serial No. 10/107,761 in the instant application (see Paper No. 8, December 23, 2003 Office Action, which contains two separate IDS 1449 Forms for the related application (one page and eight pages); and the current June 23, 2004 Office Action (duplicate of the eight page IDS 1449 Form for the related application), along with the correct IDS 1449 Forms for the present application. Applicant's reference AT, submitted with the present application on November 13, 2001 and entitled "The Choroidal Neovascularization Prevention ...", was not considered; applicant respectfully requests the Examiner to initial this reference indicating consideration.

**IN THE CLAIMS****Claim Rejections Under 35 U.S.C. §102**

Claims 1, 3, 4, 6, 7, 9, 11, 12, 14, 15, and 25 are rejected under 35 U.S.C. § 102(b) as anticipated by Mori. Applicant respectfully disagrees. Mori does not use photocoagulation as a component of therapy, and thus does not anticipate the invention. Mori uses photocoagulation only to identify or mark the area for subsequent therapy with NPe6, without which Mori would not know which area to treat by NPe6 therapy.

Immediately after the intravenous injection or one hour after the intravenous injection of the NPe6 solution, predetermined regions of the blood vessels in the seven eyes under test were irradiated with a beam of laser light ... Mori column 7, lines 52-55.

The predetermined regions (that is, said spots) of the blood vessels to be irradiated with the laser beam had been marked preliminary by photocoagulation by means of an argon laser beam". Mori column 7, lines 61-64.

Additionally, Mori himself distinguishes his PDT method from photocoagulation, further evidence that Mori does not disclose using both therapies, which is what applicant claims:

...the action of the argon laser ray used in the conventional photo-coagulation is different from the action of the laser irradiation as associated with the administration of the photochemotherapeutic obstruent NPe6 according to the present invention.... Mori column 9, lines 14-18.

Because Mori does not disclose every aspect of applicant's invention, applicant respectfully requests that this rejection be withdrawn.

Claims 1, 4, 9, 12 and 25 are rejected under 35 U.S.C. § 102(e) as anticipated by Guyer. Applicant respectfully disagrees.

Guyer discloses anti-VEGF therapy, in combination with either PDT or photocoagulation. It cannot anticipate the claimed method, at least because it does not disclose providing both low energy to activate a photosensitive agent to damage a vessel, and high energy to generate heat to coagulate fluid that has leaked from a vessel.

Accordingly, the present invention provides a method of treating an ocular neovascular disease which involves administering to a patient an anti-VEGF agent and treating the patient with phototherapy (e.g., PDT) or with other therapies, such as photocoagulation, that destroy abnormal blood vessels in the eye. Guyer page 2, paragraph 27, emphasis added.

Because Guyer does not disclose every aspect of applicant's invention, applicant respectfully requests that this rejection be withdrawn.

#### **Claim Rejections Under 35 U.S.C. §103**

Claims 2 and 10 are rejected under 35 U.S.C. § 103(a) as obvious over Mori. Applicant respectfully disagrees. Claims 2 and 10 depend from independent claims 1 and 9. Mori does not teach, suggest, or motivate the combination of two therapies to effect a method of treatment. Neither would one skilled in the art be motivated to add another therapy, as applicant has claimed, at least because Mori teaches efficacy of his NPe therapy alone.

Applicant respectfully disagrees with the Examiner's page 4, paragraph 5, assertions. Applicant disagrees that "...the applicant's written description fails to teach that the order of irradiation (application of low/high

energy light) is reversed to perform different treatment or to induce specific treatment results." Specifically, the specification discloses "The inventive therapy may be administered in any sequence, that is, laser coagulation therapy may be administered before or after PDT, or simultaneously with PDT" (page 6, lines 13-15); and "The therapies may be administered in any sequence, that is, laser coagulation therapy may be administered before or after PDT, or they may be administered essentially simultaneously" (page 10, lines 9-11). Applicant also disagrees with the examiner: "Therefore, the examiner's position is that since the order of irradiation is not used to perform a specific task, i.e., not critical to the invention, applying the low energy light prior to the high energy light would have been obvious to one skilled in the art at the time of the applicants' [sic] invention in order to treat, prevent, or alleviate age-related macular degeneration as presently claimed." Applicant respectfully asserts that one skilled in the art would not, based on the teachings of Mori, appreciate that either order of irradiation would be effective, at least because there is no suggestion or teaching in Mori to do so, and performing a particular sequence in a treatment method is routine.

Claims 5 and 13 are rejected under 35 U.S.C. § 103(a) as obvious over Mori in view of Exhibit A. Applicant does not believe Exhibit A is properly applied; Exhibit A is dated April 3, 2003, applicant's invention was filed on November 13, 2001. Mori has been distinguished as previously analyzed.

Claims 8 and 16 are rejected under 35 U.S.C. § 103(a) as obvious over Mori in view of the *Arch. Ophthalmol.* publication. Applicant respectfully disagrees. Mori has been distinguished; thus Mori in view of the publication does not render applicant's invention obvious.

Applicant therefore respectfully requests that these rejections be withdrawn.

### CONCLUSION

For the above reasons, applicant respectfully requests that these rejections be withdrawn and asserts that the application is in complete condition for allowance.

Applicant believes that no fees are due with this submission. However, should any fees or surcharges be deemed necessary, the Examiner has authorization to charge fees or credit any overpayment to Deposit Account No. 23-3000.

The Examiner is invited to telephone applicant's undersigned representative with any questions.

Respectfully submitted,  
WOOD, HERRON & EVANS, L.L.P.

Beverly A. Lyman  
Beverly A. Lyman, Ph.D.  
Reg. No. 41,961

2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202  
513 241 2324  
513 421 7269 (facsimile)